

Town of



AMHERST Massachusetts

Amherst Police Department
111 Main Street
Amherst, Massachusetts
01002

Scott P. Livingstone
Chief of Police
Business (413) 259-3000
Chief (413) 259-3014
Records (413) 259-3016
Fax (413) 259-2408
police@amherstma.gov

REPORT OF ALLEGED POLICE MISCONDUCT

Name of Aggrieved Person _____
(Last) (First) (Middle)
Date of Birth _____
(Month/Day/Year)
Address _____
(No.) (Street) (City) (State) (Zip)
Phone #/Email _____
(Home) (Mobile) (EMAIL)

Police Officer Complained About _____
(Last) (First)
Rank _____ Badge Number _____

- If above information is unknown to the aggrieved or more than one person is involved, utilize the reverse side of this form for physical descriptions and other pertinent information.

NATURE OF COMPLAINT: Describe in detail the incident and the facts surrounding the alleged misconduct. Use the reverse side of this form if necessary.

Witness: _____
(Name) (Address) (Telephone #)
Witness: _____
(Name) (Address) (Telephone #)

I understand that I will be informed of the result of the investigation of my "Report of Alleged Police Misconduct". I have read the above statement and it is true and accurate.

Signature of Aggrieved _____ Date _____
MAIL OR DROP OFF FORM TO: AMHERST POLICE DEPARTMENT, ATTN CHIEF OF POLICE, 111 MAIN ST. AMHERST, MA 01002

Received by Police: Date: _____ Time: _____ ID#: _____ Civil COMPLAINT CAD: _____

Town of



AMHERST Massachusetts

Amherst Police Department
111 Main Street
Amherst, Massachusetts
01002

Scott P. Livingstone
Chief of Police
Business (413) 259-3000
Chief (413) 259-3014
Records (413) 259-3016
Fax (413) 259-2408
police@amherstma.gov

CITIZEN'S REPORT OF ALLEGED POLICE MISCONDUCT

I. PURPOSE

These procedures have been established to:

- (a) Provide a uniform set of procedures for the submitting, investigating, and resolving of citizen reports of alleged police misconduct.
- (b) Protect the rights of the citizen to file such reports.
- (c) Protect the rights of the police officer.
- (d) Publish the procedures in a format, which is readily available and understandable to all individuals involved in the *Report* procedure.

II. DEFINITIONS

- (a) The term "MISCONDUCT" means conduct by a police officer while such officer is in uniform, or on duty, or is acting or purports to act under color of or pursuant to law; and which conduct such police officer knows or reasonably ought to know is not within the authority or discretion of such officer or is a failure to perform his/her duty as a police officer.
- (b) "AGGRIEVED PERSON" is the individual involved or subject of the incident of alleged misconduct. In the event of the inability of such person to pursue his/her remedy, his/her parent, guardian or other legal representative should be considered the aggrieved person for the purposes of this procedure.
- (c) "RESPONDENT" is the police officer whom the aggrieved person alleges has committed misconduct.

- (d) The "TOWN MANAGER" is the individual appointed by the Town Of Amherst to administer town government of the Town Of Amherst subject to the Town Manager Act, Chapter 11 Acts of 1951 as amended – C512 Acts of 1972, and is the individual responsible for the appointment of the Chief of Police and all other police officers.
- (e) The "CHIEF OF POLICE" is the individual appointed by the Town Manager to administer and manage the Amherst Police Department in accordance with Chapter 41, Section 96 of the general Laws of the Commonwealth, and is the individual responsible to enforce the law within the Town of Amherst and supervise all other police officers of the Town.
- (f) The "DISTRICT ATTORNEY" is the chief law enforcement officer of Hampshire County.
- (g) The "HEARING AUTHORITY" is the Town Manager charged with the responsibility for the formal hearing of evidence concerning a report of alleged misconduct entered against a police officer.
- (h) "RANKING OFFICER" is any officer with the rank of Sergeant, Lieutenant, Captain, or Deputy Chief within the Amherst Police Department.
- (i) The term "WORKING DAYS" means those days of the week other than Saturdays, Sundays, legal and part holidays.
- (j) The term "CALENDER DAYS" means all days of the week with no exceptions.
- (k) The "AMHERST POLICE LEAGUE" is the recognized collective bargaining representative of all permanent, sworn employees of the Police Department with the exception of the Chief of Police of the Department as certified under Chapters 149 and 150 of the General Laws and Chapter 1078 of the Acts of 1973.

III. SUBMISSION OF "REPORTS"

- (a) A standard form entitled "Town of Amherst, Massachusetts, Citizen's Report of Alleged Police Misconduct" is available in both the Police Station and in the Town Manager-Selectmen office at Town Hall.
- (b) All "Reports of Alleged Police Misconduct" must be reported on this form, and the *Report* must be dated and signed.
- (c) The *Report* must be filed with the Chief of Police or a ranking officer. The Chief of Police or ranking officer will indicate on the *Report* the date and time of receipt and sign that he/she received the *Report*.
- (d) Upon receipt of the *Report* by the Chief of Police or ranking officer, a copy shall be returned to the aggrieved.

- (e) *Reports* of alleged misconduct must be filed within thirty (30) days of the incident. If extenuating circumstance prevent such filing, the *Report* should be filed with the extenuating circumstance noted in the "nature of complaint" section.
- (f) The Town will not accept reports of alleged misconduct unless they are submitted on the official form to the Chief of Police or a ranking officer. Individuals wishing to file *Reports* in other manners should be advised of these procedures and provided with a copy.
- (g) Nothing in these procedures is to be construed as denying the citizen the right to contact the Chief of Police informally on reports of a minor nature, or the right of the Chief of Police to settle such reports informally. However, no reports will be considered beyond the Chief of Police level unless an official *Report* has first been filed with the Chief of Police.
- (h) In the event the *Report* of alleged misconduct involves the Chief of Police, then the *Report* shall be filed with the Town Manager.

IV. INVESTIGATION

- (a) The Chief of Police shall advise the respondent of the receipt of the *Report*, and permit the respondent to read the *Report*.
- (b) The Chief of Police shall take appropriate actions to fully investigate the *Report*.
- (c) The investigation should be completed within ten (10) working days of investigators initial interview of the *Aggrieved Person*. If ten (10) working days are not sufficient time, the Chief of Police may take a reasonable amount of additional time. The aggrieved person shall be informed of this action and the reasons for delay.
- (d) The Town Manager shall investigate all *Reports* involving the Chief of Police.

V. RESOLUTION OF "REPORT"

- (a) Within seven (7) working days of the expiration of the ten (10) working day investigation period (or extension), the Chief of Police shall notify the aggrieved and respondent of his decision and contemplated action, enclosing a summary of the pertinent facts leading to the reasons for his determination. The disposition should be noted in the appropriate section of the *Report*.
- (b) If the Chief of Police decides to take disciplinary action against the respondent, he shall:
 - 1. Impose such sanctions as are within his authority as Chief of Police, or

2. Recommend to the Town Manager that he take appropriate disciplinary action as outlined in the Agreement between the Amherst Police League and the Town (July 1, 1974-June 30, 1975) or in accordance with the Amherst Town Manager Act, or
 3. He shall notify the District Attorney recommending appropriate action, or
 4. Any combination of the above.
- (c) Either the respondent or aggrieved may meet with the Chief of Police to discuss his disposition of the *Report*.
- (d) If the *Report* involves the Chief of Police, the Town Manager shall take direct action in accordance with the above procedures.

VI. APPEAL OF DISPOSITION

- (a) All appeals by respondents who are covered by agreement between the Town and the Amherst Police League (July 1, 1974-June 30, 1975) shall be carried forward in accordance with Section VII, Grievances.
- (b) An appeal by respondents not covered under VI. (a), shall be carried forward in accordance with the appeals procedures established under the Town of Amherst Personnel By-Law.
- (c) An aggrieved individual may appeal the Chief of Police's disposition to the Town Manager by requesting a formal hearing. The request must be made in writing and be received by the Town Manager within thirty (30) calendar days of the aggrieved's receipt of the Chief of Police's report on the disposition.
- (d) The decision of the Town Manager on *Reports* involving the Chief of Police shall be non-appealable by the aggrieved, except through the courts.

VII. HEARING

- (a) The Town Manager shall set a date, time and place for the hearing within twenty-one (21) calendar days of the request for the hearing. All parties shall be notified at least seven (7) calendar days prior to the hearing.
- (b) All parties at the hearing have the right to be represented by counsel. The hearing shall be closed to the public unless the respondent requests otherwise to protect against possible undue damage to the reputation of the persons involved. In the event that the hearing is held in closed session, the Hearing Authority should allow attendance by three (3) representative observers of each party.
- (c) The purpose of the hearing is to ascertain the exact truth of the incident. The Hearing Authority is not expected to follow the strict rules of evidence however he should try to protect the constitutionally guaranteed rights or those privileges generally recognized by law. Evidence should be admitted and given probative

effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Every party has the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify and to submit rebuttal evidence. The testimony taken at the hearing shall be under oath.

- (d) The aggrieved, respondent, or hearing authority may request that a qualified stenographer make a record of the hearing. The requesting party shall bear the cost, and shall make copies available, at no cost, to all parties.
- (e) At the conclusion of the hearing, the Town Manager may recess the hearing and request the Chief of Police to further investigate the "Report"; may recess the hearing and investigate the *Report* himself; or adjourn the hearing and take the matter under advisement.
- (f) The Town Manager shall issue his decision in writing, stating the basis for his decision within ten (10) calendar days of the adjournment of the hearing and shall forward a copy to the aggrieved and respondent.
- (g) If the Town Manager finds misconduct has occurred, he shall impose disciplinary action in accordance with the agreement between the Town and the Amherst Police League (July 1, 1974-June 30, 1975), and the Town Manager Act. The respondent may appeal the disciplinary action in accordance with the "Agreement" and the "Act".
- (h) The decision of the Town Manager shall be non-appealable by the aggrieved except through the Courts.

VIII. ROLE OF BOARD OF SELECTMEN

Under the Town Manager Act, the Town Manager's personnel actions are final and non-appealable to the Board of Selectmen. However, the Board of Selectmen may examine the conduct of the investigation and hearing by the Town Manager.

IX. ROLE OF POLICE OFFICERS

Every officer of the department has an obligation to abide by and encourage the use of these procedures. Failure to do so or interference with the conduct of the investigation or hearing shall be grounds for disciplinary action.

X. CIVIL RIGHTS OF OFFICERS

"NOTHING IN THIS PROCEDURE SHALL BE CONSTRUED TO DENY A POLICE OFFICER ANY OF HIS CIVIL RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES, THE GENERAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS OR THE CONTRACT BETWEEN THE TOWN OF AMHERST AND THE AMHERST POLICE LEAGUE".